IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR

BENCH, JAIPUR.

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J U D G M E N T

Dr.Ramdhan Vs. Sh. V.S.Singh & ors.

D.B.CIVIL MISC. APPEAL NO. NO.400/1997 AGAINST THE JUDGMENT AND ORDER DATED 24.4.97 PASSED BY LEARNED SINGLE JUDGE IN S.B. CIVIL CONTEMPT PET. NO.38/1996.

Date of Judgment : September 21, 2006.

P R E S E N T

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

HON'BLE DR.JUSTICE VINEET KOTHARI

Dr.P.C.Jain, for the appellant.
Mr.Sarans Saini, for the the respondent.

BY THE COURT: (PER HON'BLE KOTHARI,J.)

1. This appeal arises out of the order of learned Single Judge dated 24.4.1997 passed in SB Civil Contempt Petition No. 38/1996 filed by the present appellant for the alleged violation of directions given in the Judgment of learned Single Judge in SBCW Pet. No.3725/1993 (Rajasthan Bar Federation Vs. The State of Rajasthan and ors.) decided on 26.4.1995 wherein in public interest

litigation , certain directions were given by the learned Single Judge directing the authorities of Jaipur Development Authority to undertake certain actions within the time frame as the allegations in that public interest litigation were that the authorities of JDA indulged in sheer inaction in approval of maps etc.

2. The petitioner-appellant filed the aforesaid contempt petition alleging therein that he had filed papers for approval of the map for proposed construction by him on 27.10.1993 and thereafter number of reminders were given to the authorities but they did not take any action in the matter and thus there was disobedience of the directions given by the court in the aforesaid Judgment. The respondents contested the contempt petition and submitted in their reply that a letter dated 22.1.1994 was already sent to the petitioner giving reason for not approving the map in question.

3. The learned Single Judge after hearing the arguments of both sides came to the conclusion that the contemnors cannot be said to have committed a deliberate defiance of the orders of the court and, therefore, the notices issued to them are liable to be discharged. To this extent the contempt petition was dismissed by the learned

Single Judge.

4. However, the learned Single Judge on an application filed by third party Smt. Kalawati Goyal along with certain documents raising doubt as to the title of part of the land alleged to have been owned by the appellant-petitioner and, therefore, the applicant submitted that there was no question of approval of his map, came to the conclusion that it is the appellant-petitioner who committed contempt of court by concealment of facts and, therefore, holding the petitioner guilty for contempt, the court imposed the fine of Rs.2,000/- upon him to be paid within 15 days, failing which simple imprisonment for 15 days was awarded against the appellant-petitioner.

5. Being aggrieved by this Judgment and order, the appellant-petitioner has approached the Division Bench by way of present appeal.

6. Having heard learned counsel, and upon perusal of the record, we are inclined to allow this appeal.

7. We are of the view that once the learned Single Judge came to the conclusion on the basis of material before the court that no contempt was made out against

the alleged contemnors and notices for contempt were discharged, there was no good reason or sufficient case made out on the basis of certain documents filed by the applicant Smt.Kalawati Goyal to come to the conclusion that the appellant-petitioner had made concealment of facts and thereby committed contempt of court. The contempt petition could either result in conviction of contemnors or the court could come to the conclusion that no contempt was made out as was done in the present case. The contempt petition filed by the petitioner could not be converted into a counter contempt petition on the application by a stranger. Incidentally the application filed by the third party, a stranger to the contempt petition placing on record certain documents was never allowed by the learned Single Judge himself. The said application filed on 20.1.1997 came up before this court on 31.1.1997 when the matter was adjourned to 3.2.1997 and on 3.2.1997 also, the petitioner was given an opportunity to show cause as to why action of contempt of court be not taken against him for concealment of facts and mis-statement of facts which had been brought on record by Mr.Garg, counsel for the applicant Smt.Kalawati Goyal. Thereafter also, the said application was never allowed by the court but the material placed along with the said application appears to have been considered and

formed the basis for convicting the appellant-petitioner himself by the impugned Judgment in the contempt petition.

8. Having considered the rival submissions, we are of the view that this part of the impugned Judgment of learned Single Judge convicting the appellant-petitioner cannot be sustained and same is liable to be set aside.

9. Accordingly, the present appeal is allowed and the impugned conviction of the appellant-petitioner and imposition of fine of Rs.2,000/- upon him and in default of payment of fine to further undergo simple imprisonment of 15 days in the impugned Order is set aside. The other part of judgment discharging contempt notices to contemnors is however upheld and not disturbed. No order as to costs.

(Dr.VINEET KOTHARI)J. (Mrs.GYAN SUDHA MISRA)J.

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